

Subpart B—Eligibility Criteria for Claims Relating to Childhood Leukemia**§ 79.10 Scope of subpart.**

The regulations in this subpart describe the criteria for eligibility for compensation under section 4(a)(1) of the Act, and the type and extent of evidence that will be accepted as proof of the various criteria. Section 4(a)(1) of the Act provides for a payment of \$50,000 to individuals presumably exposed to fallout from the detonation of atmospheric nuclear devices at the Nevada Test Site due to their physical presence in an affected area during a designated time period, and later developed leukemia (other than chronic lymphocytic leukemia).

§ 79.11 Definitions.

(a) *Affected area* means the following geographical descriptions, as they were recognized by the state in which they are located, as of October 15, 1990:

(1) In the State of Utah, the counties of Beaver, Garfield, Iron, Kane, Millard, Piute, Sevier and Washington;

(2) In the State of Nevada, the counties of Eureka, Lander, Lincoln, Nye, White Pine, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71;

(3) In the State of Arizona, that portion of the State that is north of the Grand Canyon and west of the Colorado River.

(b) *Physically present* means the physical presence of a person at any place within the affected area for a substantial period of each day of the time period claimed.

(c) *Designated time period* means the period beginning on January 21, 1951 and ending on October 31, 1958, or the period beginning on June 30, 1962 and ending on July 31, 1962, whichever is appropriate.

(d) *First exposure* or *initial exposure* means the date on which the claimant was first physically present in the affected area during the designated time period.

(e) *Onset* or *incidence* of a specified compensable disease means the date the disease was first diagnosed by a physician. However, in the case of leukemia, the date of onset will be pre-

sumed to be the date of first diagnosis by a physician unless otherwise established by appropriate authorities at the National Cancer Institute using such written medical documentation as may be prescribed by the Unit as appropriate for an individual case.

(f) *Leukemia* means any medically-recognized form of acute or chronic leukemia, other than chronic lymphocytic leukemia.

§ 79.12 Criteria for eligibility.

To establish eligibility for compensation under this subpart, a claimant or eligible surviving beneficiary must show by a preponderance of the evidence that each of the following criteria are satisfied:

(a) The claimant was physically present in the affected area for either

(1) A period of at least one year during the period beginning on January 21, 1951 and ending on October 31, 1958, or

(2) The entire period beginning on June 30, 1962 and ending on July 31, 1962;

(b) After such period of physical presence the claimant contacted leukemia;

(c) The claimant's initial exposure occurred prior to age 21; and

(d) The onset of the leukemia occurred between two (2) and thirty (30) years after the date of first exposure.

§ 79.13 Proof of physical presence.

(a) For purposes of establishing eligibility under § 79.12(a)(1), the claimant must have been physically present in the affected area for a total of one year, consecutively or cumulatively, during the period beginning on January 21, 1951, and ending on October 31, 1958. For purposes of establishing eligibility under § 79.12(a)(2), the claimant must have been physically present within the affected area continuously during the period beginning on June 30, 1962 and ending July 31, 1962.

(b) Subject to the limitation of § 79.4(c), proof of physical presence may be made by the submission of any trustworthy contemporaneous records that, on their face or in conjunction with other such records, establish that the claimant was present in the affected area during the designated time period. Contemporaneous records from